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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,156	10/27/2003	David Harris	C047038/0138174	3022
49328	7590	07/10/2006	EXAMINER	
BRYAN CAVE LLP 211 NORTH BROADWAY SUITE 3600 ST. LOUIS, MO 63102-2750			JANAKIRAMAN, NITHYA	
			ART UNIT	PAPER NUMBER
			2191	

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/694,156		HARRIS, DAVID	
	<b>Examiner</b>		<b>Art Unit</b>	
	Nithya Janakiraman		2191	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 6, 7, 9, 16, 17, and 19 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.
2. Claims 6, 9, 16, 19 contain the trademark/trade name PowerQuest Virtual Floppy Technology and PowerQuest DataGone. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe hard drive erasing software and virtual floppy technology and, accordingly, the identification/description is indefinite.
3. Claims 7 and 17 contain reference to US Department of Defense 5220.22-M, Chapter 8-306 sanitizing standards. The claim scope is uncertain as DOD standards may change over time.

*Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 10-19 are rejected under 35 U.S.C. 101 because providing a system which consists of a vendor server and software simply capable of being executed with no actual execution of booting is not sufficient to constitute statutory material. No useful, tangible, or concrete result is claimed.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over "PowerQuest Delivers Complete Lifecycle Management For Enterprise Computer Systems", *PR Newswire*, July 2001(hereinafter *PR Newswire*) and further in view of the World Wide Web.

7. *PR Newswire* discloses hard drive erasing software and boot simulation software, however, it does not disclose delivery of software from a vendor over the World Wide

Web. The World Wide Web inherently has the capability of allowing users to download various types of software from vendor servers, as well as the use of credit cards and credit card authorization software for payment of goods. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine these two ideas, motivated by the desire to more conveniently deliver services to clients. Allowing the installation of software directly from the vendor server to the client computer eliminates time, effort, and energy required for a vendor to physically mail the software to the buyer. Allowing the process of credit card authorization eliminates the burden of time, energy, and effort required for the customer to pay with check, cash, or other physical means of payment.

8. As per claim 1, *PR Newswire* and the World Wide Web teach:

A method for erasing the hard drive of a customer computer which is connected to a computer network, comprising the steps of:

providing a vendor server connected to the computer network (the Internet is inherently a network, and the World Wide Web contains countless vendors);

installing hard drive erasing software into a software program which simulates the booting of a floppy disk (*PR Newswire* discloses the PowerDepoly Suite which contains

Virtual Editor and DataGone which "allows customers to safely erase their disks";

Virtual Floppy Technology, which is a part of Virtual Editor, inherently simulates the booting of a floppy disk);

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installing the boot simulation software into a software installation program (the PowerDeploy Suite, including Virtual Editor, contain installation software);  
delivering the software installation program to the customer computer over the computer network using the vendor server (the World Wide Web contains the ability to deliver installation programs) ; and

executing the hard drive erasing software on the customer computer by executing the boot simulation software (the PowerDeploy Suite, including Virtual Editor, is capable of executing boot simulation software).

9. As per claim 2, *PR Newswire* teaches:

The method of claim 1 wherein the computer network is the Internet (See "PowerQuest Deploy Suite will be sold through...<http://www.powerquest.com/powerdeploy>").

10. As per claim 3, the World Wide Web teaches:

The method of claim 1 further comprising the step of receiving credit card information from the customer computer over the computer network (there are numerous web sites that contain this capability).

11. As per claim 4, the World Wide Web teaches:

The method of claim 2 further comprising the step of receiving authorization of the credit card information by using a credit card authorization software program (numerous sites on the World Wide Web contain this capability).

12. As per claim 5, *PR Newswire* teaches:

The method of claim 1 wherein the hard drive erasing program is a DOS-based software program (*PR Newswire* discloses DataGone, which is a DOS-based program).

13. As per claim 6, *PR Newswire* teaches:

The method of claim 1 wherein the software program simulating the booting of a floppy disk is PowerQuest Virtual Floppy Technology (*PR Newswire* discloses this technology).

14. As per claim 7, *PR Newswire* teaches:

The method of claim 1 wherein the hard drive erasing software program meets US Department of Defense 5220.22-M, Chapter 8-306 sanitizing standards (*PR Newswire* discloses DataGone, which is compliant with DOD sanitizing standards).

15. As per claim 8, *PR Newswire* teaches:

The method of claim 1 further comprising the step of displaying the results of the hard drive erasing program on the customer computer (*PR Newswire* discloses DataGone which inherently contains this capability).

16. As per claim 9, *PR Newswire* teaches:

The method of claim 1 wherein the hard drive erasing program is PowerQuest DataGone (*PR Newswire* discloses this program).

17. As per claim 10, *PR Newswire* and the World Wide Web teach:

A system for erasing the hard drive of a customer computer which is connected to a computer network, the system comprising:

a vendor server connected to the computer network, the vendor server having a memory device and processing means;

hard drive erasing software stored in the memory device of the vendor server;

a software program which simulates the booting of a floppy disk stored in the memory device of the vendor server;

wherein the processing means is programmed to deliver, install and execute the boot



simulation software and hard drive erasing software into the customer computer over the computer network (See rejection of claim 1; it would be obvious to combine the World Wide Web with the purchasing and downloading of PowerQuest Virtual Floppy Technology and PowerQuest DataGone.

18. As per claim 11, the World Wide Web teaches:

The system of claim 10 further comprising credit card authorization software program stored in the memory device of the vendor server and wherein the processing means is programmed to receiving credit card information from the customer computer over the computer network (see rejection of claim 4).

19. As per claim 12, the World Wide Web teaches:

The system of claim 11 wherein the processing means is programmed to receive authorization of the credit card information by using the credit card authorization software program (see rejection of claim 4).

20. As per claim 13, *PR Newswire* and the World Wide Web teach:

The system of claim 10 wherein the processing means is programmed to deliver, install and execute the boot simulation software and hard drive erasing software using a software installation program (see rejection of claim 1).

21. As per claim 14, *PR Newswire* teaches:

The system of claim 10 wherein the computer network is the Internet (see rejection of claim 2).

22. As per claim 15, *PR Newswire* teaches:

The system of claim 10 wherein the hard drive erasing program is a Dos-based software program (see rejection of claim 5).

23. As per claim 16, *PR Newswire* teaches:

The system of claim 10 wherein the software program simulating the booting of a floppy disk is PowerQuest Virtual Floppy Technology (see rejection of claim 6).

24. As per claim 17, *PR Newswire* teaches:

The system of claim 10 wherein the hard drive erasing software program meets US Department of Defense 5220.22-M, Chapter 8-306 sanitizing standards (see rejection of claim 7).

25. As per claim 18, *PR Newswire* teaches:

The system of claim 10 wherein the hard drive erasing software program is configured to display the results of the hard drive erasing operation on the customer computer (see rejection of claim 8).

26. As per claim 19, *PR Newswire* teaches:

The system of claim 10 wherein the hard drive erasing program is PowerQuest DataGone (see rejection of claim 9).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nithya Janakiraman whose telephone number is 571-270-1003. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bruce can be reached on 571-272-2487. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NJ

  
DAVID V. BRUCE  
PRIMARY EXAMINER